

1 BOURQUE LAW FIRM, P.C.  
 2 Arthur J. Bourque (No. 013773)  
 3 1819 East Morten, Suite 280  
 Phoenix, Arizona 85020  
 Telephone: (602) 559-9550  
[art@bourquelaw.com](mailto:art@bourquelaw.com)

5 Attorney for Plaintiff

6  
**UNITED STATES DISTRICT COURT**  
 7  
**DISTRICT OF ARIZONA**

8 NextGen Builders, LLC,

9 Plaintiff,

10 v.

11 Platinum Builders Group LLC; Muse  
 12 Architecture, LLC; Bridgestone Group LLC,

13 Defendants.

No. 2:24-cv-00202-JJT

**PLAINTIFF'S ANSWER TO  
 AMENDED COUNTERCLAIMS OF  
 PLATINUM BUILDERS GROUP LLC**

15 For its Answer to Platinum Builders Group LLC's ("Platinum") Amended  
 16 Counterclaims ("Counterclaim"), NextGen Builders, LLC ("NextGen Builders")  
 17 answers as follows:

18 1. Without admitting to the basis for the Counterclaim, NextGen Builders  
 admits paragraph 1 of Platinum's Counterclaim.

20 2. Without admitting to the basis for the Counterclaim, NextGen Builders  
 admits paragraph 2 of Platinum's Counterclaim.

22 3. Without admitting to the basis for the Counterclaim, NextGen Builders  
 admits paragraph 3 of Platinum's Counterclaim.

24 4. Without admitting to the basis for the Counterclaim, NextGen Builders  
 admits paragraph 4 of Platinum's Counterclaim.

26 5. NextGen Builders denies paragraph 5 of Platinum's Counterclaim.

27 6. NextGen Builders denies paragraph 6 of Platinum's Counterclaim.

28 7. NextGen Builders denies paragraph 7 of Platinum's Counterclaim.

1       8. NextGen Builders admits paragraph 8 of Platinum's Counterclaim  
2 only insofar as NextGen Builders' Plans are in the H-plan style of architecture; deny  
3 the remainder of paragraph 8 and affirmatively allege that Platinum's owner,  
4 Matthew Randall ("Randall"), has admitted that he copied NextGen Builders' Plans  
5 and emailed them to Ryan Cotter ("Cotter"). Cotter avowed under penalty of perjury  
6 that Randall emailed him a floor plan for a Surprise, Arizona spec home and that  
7 floor plan is identical to NextGen Builders' Prescott Plan and that Randall did not  
8 disclose to Cotter that Randall had copied NextGen Builders' Prescott Plan off  
9 NextGen Builders' website. Cotter also avowed under penalty of perjury that  
10 Platinum's Standard Plan also arose from the copy of NextGen Builders' Prescott  
11 Plan that Randall had emailed to Cotter. NextGen Builders affirmatively alleges that  
12 Platinum and Randall have submitted a false and fraudulent declaration as set forth  
13 in NextGen Builders' Supplement to Motion for Preliminary Injunction.

14      9. NextGen Builders denies paragraph 9 of Platinum's Counterclaim.  
15 Although like all houses, NextGen Builders' Plans incorporates features and  
16 elements common to a house, e.g. bedrooms, bathrooms, common areas, patios,  
17 garages, hallways, bathrooms, doors and windows, each arrangement of those in a  
18 unique way to meet their design objectives. While there are some features of  
19 NextGen Builders' Plans that are required to comply with current industry standards,  
20 there are also many features, arrangements, dimensions, spacing considerations, etc.  
21 that are not required but were NextGen Builders' choice to create specific designs.  
22 These features are unique and together provide for the all around aesthetic and useful  
23 value of the designs. This is part of the reason these designs are so popular and  
24 successful to NextGen Builders. There are thousands of different H-plan  
25 architectural home plan examples that can be found with a simple Google search.  
26 That clearly evidences that there is not a "limited number of ways to arrange  
27 bedrooms, bathrooms, common area, patios, garages, places, hallways, bathrooms,  
28 etc." The fact that Randall copied NextGen Builders' Plans and not other unrelated

1 designs further highlights these facts.

2       10. NextGen Builders admits paragraph 10 of Platinum's Counterclaim  
3 only insofar as its Plans, like all house plans, include some functional features and  
4 aspects, and that some of those, like the inclusion of a rectangular room or a door or  
5 a window, are by convention expressed in a limited number of ways based on the  
6 purpose the plans serve and architectural standards, but denies that its expression of  
7 its architectural designs do not include copyrightable features. NextGen Builders  
8 denies that other than the overall layout of its plans being in a general shape of an H,  
9 the overall size, shape and feel of its plans, as well as the placement of rooms, patios,  
10 windows, doors, closets, a garage, and other architectural features are in the public  
domain.

11       11. NextGen Builders denies paragraph 11 of Platinum's Counterclaim.

12       12. NextGen Builders denies paragraph 12 of Platinum's Counterclaim.

13       13. NextGen Builders admits paragraph 13 of Platinum's Counterclaim.

14       14. NextGen Builders denies paragraph 14 of Platinum's Counterclaim.

15       15. NextGen Builders admits paragraph 15 of Platinum's Counterclaim  
16 only insofar as Platinum denies all allegations and assertions of infringement.  
17 NextGen Builders affirmatively alleges that Platinum and Randall have submitted a  
18 false and fraudulent declaration as set forth in NextGen Builders' Supplement to  
19 Motion for Preliminary Injunction.

20       16. NextGen Builders admits paragraph 16 of Platinum's Counterclaim  
21 only insofar as Platinum's future construction activities regarding its copyright  
22 infringement are at issue.

23       17. NextGen Builders denies paragraph 17 of Platinum's Counterclaim.

24       18. NextGen Builders responds to paragraph 18 of Platinum's  
25 Counterclaim by repeating its previous responses herein.

26       19. NextGen Builders admits paragraph 19 of Platinum's Counterclaim.

27       20. NextGen Builders admits paragraph 20 of Platinum's Counterclaim  
28 only insofar as Platinum denies that Plaintiff has any valid and protectable copyrights

1 under the Copyright Act, 17 U.S.C. §§ 101, et seq.

2 21. NextGen Builders admits paragraph 21 of Platinum's Counterclaim in  
3 that there is an actual and justiciable controversy between Plaintiff and Platinum with  
4 respect to the validity of the copyrights in the NextGen Builders' Plans and  
5 affirmatively alleges that the Counterclaim is duplicative of issues already before the  
6 Court.

7 22. NextGen Builders denies paragraph 22 of Platinum's Counterclaim,  
8 and affirmatively alleges that Platinum's Counterclaim is meritless.

9 23. NextGen Builders responds to paragraph 23 of Platinum's  
10 Counterclaim by repeating its previous responses herein.

11 24. NextGen Builders admits paragraph 24 of Platinum's Counterclaim.

12 25. NextGen Builders admits paragraph 25 of Platinum's Counterclaim  
13 only insofar as Platinum denies that it has infringed any protectable expression under  
14 the Copyright Act, 17 U.S.C. §§ 101, et seq.

15 26. NextGen Builders admits paragraph 26 of Platinum's Counterclaim in  
16 that there is an actual and justiciable controversy between Plaintiff and Platinum with  
17 respect to the validity of the copyrights in the NextGen Builders' Plans and  
18 affirmatively alleges that the Counterclaim is duplicative of issues already before the  
19 Court.

20 27. NextGen Builders admits paragraph 27 of Platinum's Counterclaim in  
21 that Platinum seeks a declaratory judgment that it has not infringed any valid  
22 copyright interest relating to NextGen Builders' Plans and affirmatively alleges that  
23 the Counterclaim is duplicative of issues already before the Court.

24 28. NextGen Builders denies all allegations not expressly admitted herein.  
25  
26  
27  
28

**JURY DEMAND**

NextGen Builders also demands a jury trial.

**AFFIRMATIVE DEFENSES**

1. The Counterclaim fails to state a claim upon which relief may be  
5 granted.

6. 2. The Counterclaim is repetitious of issues already before the Court via  
7 NextGen Builders Complaint and Platinum's affirmative defenses.

8. 3. NextGen Builders has a valid copyright in the work at issue in this case  
9 and Platinum infringed the copyright.

**PRAAYER FOR RELIEF**

11 WHEREFORE, having fully answered the Counterclaim, NextGen Builders  
12 respectfully requests that it be dismissed in its entirety with prejudice, Platinum take  
13 nothing thereby, NextGen Builders be awarded its attorneys' fees and costs pursuant  
14 to any applicable law, and NextGen Builders be awarded such other and further relief  
15 as is just and proper under the circumstances of this case.

16 DATED this 27th day of June, 2024.

17 BOURQUE LAW FIRM, P.C.  
18

19 By: /s/ Arthur J. Bourque  
20 Arthur J. Bourque  
21 Attorneys for Plaintiff  
22  
23  
24  
25  
26  
27  
28

1  
2           **CERTIFICATE OF SERVICE**  
3

4           I hereby certify that I electronically filed the foregoing with the Clerk of the  
5 Court for the U.S. District Court for the District of Arizona by using the CM/ECF  
6 system on June 27, 2024, and copies emailed this same date to:  
7

8           Jason Shull  
9           Banner Witcoff  
10          71 S Wacker Drive, #3600  
11          Chicago, IL 60606  
12          jschull@bannerwitcoff.com  
13          Attorneys for Defendant Platinum Builders Group LLC  
14

15           /s/Arthur Bourque  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28